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इस भाग में भिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 7th May, 1968/Vaisakha 17, 1890 (Saka)

The following President's Act is published for general information:—

**THE ORIENTAL GAS COMPANY (AMENDMENT) ACT,
1968**

No. 15 OF 1968

Enacted by the President in the Nineteenth Year of the
Republic of India.

An Act to amend the Oriental Gas Company Act, 1960.

In exercise of the powers conferred by section 3 of the West Bengal
of 1968. State Legislature (Delegation of Powers) Act, 1968, the President is
pleased to enact as follows:—

1. (1) This Act may be called the Oriental Gas Company (Amendment) Act, 1968. Short title and commencement.

(2) It shall be deemed to have come into force on the 1st day of October, 1960.

Amendment of section 4. 2. In section 4 of the Oriental Gas Company Act, 1960 (hereinafter West Bengal referred to as the principal Act), for the words "With effect from the appointed day and for a period of five years thereafter—", the following shall be substituted, namely:—

"Subject to the provisions of sub-section (2A) of section 7, with effect from the appointed day and for a period of five years thereafter, or, in the case of acquisition of the undertaking of the Company under section 7, till the date of such acquisition, whichever is earlier—".

Amendment of section 7. 3. In section 7 of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2A) On the vesting of the undertaking of the Company in the State Government, the provisions of clauses (c) and (d) of section 4 shall continue to have effect as if the limitation regarding the period of five years or the period till the acquisition of the undertaking of the Company were not mentioned in that section.

(2B) Every person employed in connection with the undertaking of the Company and continuing in office immediately before the date of vesting of the undertaking of the Company in the State Government under sub-section (2) shall be employed by the State Government on such terms and conditions (not being less advantageous than what they were entitled to immediately before such date) as may be determined by the State Government and until his employment is terminated or until such terms and conditions are duly altered by the State Government by rules made in this behalf:

Provided that if the alteration so made is not acceptable to any such person, his employment may be terminated by the State Government on payment to him by the State Government of compensation equivalent to three months' remuneration, if he is a permanent employee, and one month's remuneration, if he is not a permanent employee."

Amendment of section 8. 4. For sub-section (1) of section 8 of the principal Act, the following sub-sections shall be substituted, namely:—

"(1) In respect of the taking over of the management and control under section 3, or acquisition under section 7, of the undertaking of the Company, there shall be paid by the State

Government to the Company compensation to be determined under sub-section (2) as follows, that is to say:—

(a) In the case of taking over of the management and control of the undertaking of the Company, the annual compensation payable shall be a sum representing the average of the net annual income of the undertaking of the Company over a period of three accounting years ending on the 30th June, 1960.

Explanation.—For the purpose of this paragraph, “net annual income of the undertaking of the Company” means the difference between the amount of gross revenue receipts and other general receipts accountable in the assessment of Indian income-tax arising from, and ancillary or incidental to, the business of the Company and the amount of expenditure incurred on the following, namely:—

- (i) rents, rates and taxes;
- (ii) interest on loans and security deposits;
- (iii) maintenance and repair;
- (iv) collection charges;
- (v) cost of management, including the remuneration to managing agents, if any; and
- (vi) other expenses admissible under the law for the time being in force in the assessment of Indian income-tax and arising from, and ancillary or incidental to, the business of the Company.

(b) In the case of acquisition of the undertaking of the Company, the compensation payable by the State Government shall be determined in accordance with the principles specified in the Schedule.

(1A) Notwithstanding that separate valuations are calculated under the principles specified in the Schedule in respect of the several matters referred to therein, the amount of compensation to be given shall be deemed to be a single compensation to be given for the undertaking as a whole.”.

5. In sub-section (2) of section 9 of the principal Act, for the words Amendment “from the date of issue”, the words, brackets and figures “from the date of enactment of the Oriental Gas Company (Amendment) Act, 1968” shall be substituted.

**Amendment
of section
10.**

6. In sub-section (2) of section 10 of the principal Act,—

(1) after clause (a), the following clause shall be inserted, namely:—

“(aa) the terms and conditions of service of persons employed in the undertaking of the Company and referred to in sub-section (2B) of section 7;”;

(2) clause (c) shall be omitted.

**Insertion of
new section
10A.**

7. After section 10 of the principal Act, the following section shall be inserted, namely:—

**Protection of
action taken
under the
Act.**

“10A. No suit, prosecution or other legal proceeding shall lie against the State Government or any officer or authority of the State Government for anything which is in good faith done or intended to be done under this Act.”.

**Insertion of
Schedule.**

8. After section 11 of the principal Act, the following Schedule shall be inserted, namely:—

“THE SCHEDULE

[See section 8(1)(b)]

PRINCIPLES FOR DETERMINING COMPENSATION FOR ACQUISITION OF THE UNDERTAKING OF THE COMPANY

Paragraph I.—The compensation to be paid by the State Government to the Company in respect of acquisition of the undertaking thereof shall be an amount equal to the sum total of the value of the properties and assets of the Company as on the date of acquisition of the undertaking of the Company calculated in accordance with the provisions of paragraph II less the sum total of the liabilities and obligations of the Company as on that date calculated in accordance with the provisions of paragraph III, together with interest on such amount calculated in accordance with the provisions of paragraph IV.

Paragraph II.—(a) The market value on the date of acquisition of the undertaking of the Company—

(i) of any land or buildings;

(ii) of any plant, machinery or other equipment;

(iii) of any shares, securities or other investments held by the Company;

(b) the total amount of the premiums paid by the Company up to the date of acquisition of the undertaking of the Company in respect of all leasehold properties reduced in the case of each such premium by an amount which bears to such premium the same proportion as the expired term of the lease in respect of which such premium shall have been paid bears to the total term of the lease;

(c) the amount of debts due to the Company on the date of acquisition of the undertaking of the Company, whether secured or unsecured, to the extent to which they are reasonably considered to be recoverable;

(d) the amount of cash held by the Company on the date of acquisition of the undertaking of the Company, whether in deposit with a bank or otherwise;

(e) the market value on the date of acquisition of the undertaking of the Company of all tangible assets and properties other than those falling within any of the preceding clauses.

Paragraph III.—The total amount of liabilities and obligations incurred by the Company in connection with the formation, management and administration of the undertaking of the Company and subsisting immediately before the date of acquisition of the undertaking of the Company:

Provided that any of the properties, assets, liabilities or obligations of the Company as on the date of acquisition of the undertaking of the Company shall not include such properties or assets as were added, invested or acquired and such liabilities or obligations as were incurred in connection with such addition, investment or acquisition by the State Government during the period of management and control of the undertaking of the Company.

Paragraph IV.—The interest referred to in paragraph I shall be on the amount mentioned in the said paragraph for the period commencing from the date of vesting of the undertaking of the Company under sub-section (2) of section 7 and ending with the date immediately before the date of enactment of the Oriental Gas Company (Amendment) Act, 1968, calculated at the average bank rate during the said period.”.

ZAKIR HUSAIN,
President.

V. N. BHATIA,
Secy. to the Govt. of India.

Reasons for the enactment

The Oriental Gas Company Act, 1960 (West Bengal Act XV of 1960), was enacted by the West Bengal State Legislature and came into force on the 1st October, 1960. The Act provides for the taking over (for a limited period) of the management and control, and the subsequent acquisition, of the undertaking of the Oriental Gas Company Limited, with a view to increasing the production of gas and improving the quality thereof.

2. The Government of West Bengal took possession of the undertaking of the Company on 16th November, 1960, under section 3 read with section 5 of the Act. Thereafter the Government of West Bengal acquired the entire undertaking under section 7 of the Act with effect from 22nd March, 1962, and since then the undertaking of the Company is vested in the Government of West Bengal absolutely and free from all encumbrances.

3. Under section 8(1)(b) of the Act, in the case of the acquisition of the Gas Company, the total compensation payable to the Company shall be—

(i) the sum representing the purchase price of the undertaking of the Company reduced by such depreciation as may be allowed by the Tribunal after considering the period and nature of the use and the present condition of the properties concerned on the date of vesting of the undertaking in the State Government, or

(ii) a sum representing eight times the average net income of the undertaking of the Company over a period of five complete years preceding the year in which the undertaking of the Company has been transferred to the State Government for the purpose of management and control,

whichever is less.

4. For a property compulsorily acquired, compensation is required to be paid as contemplated by article 31(2) of the Constitution. The expression "compensation" used in this article has been construed by the Supreme Court as meaning the just equivalent of what the owner has been deprived of at or about the time of acquisition of the property. In view of the rulings of the Supreme Court on the subject, especially in the case of the Union of India *v.* Metal Corporation of

India, it is considered necessary to suitably amend section 8 of the Act so as to provide for payment of compensation for acquisition of the undertaking of the Gas Company on the same lines as provided in the Metal Corporation of India (Acquisition of Undertaking) Act, 1966, enacted after the decision of the Supreme Court referred to above and for payment of revised compensation for the period of management and control also.

5. The proposed measure is mainly intended to achieve the above object and contains certain other amendments which are either minor or of a consequential nature.

6. The Committee constituted under the West Bengal State Legislature (Delegation of Powers) Act, 1968 (6 of 1968), has been consulted before the enactment of this measure as a President's Act.

N. N. WANCHOO,
Secy. to the Govt. of India,
Ministry of Industrial Development
and Company Affairs.

